IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.302 of 2003

Between:

1 Sri P.Gajanand son of Late Laxinarayan
3-4-451, General Bazaar, Secunderabad
2 Sri Dhanraj son of Late Laxminarayan
3-4-451, General Bazaar, Secunderabad
3 Sri Santosh son of Ramlal
3-4-451, General Bazaar, Secunderabad

...PETITIONERS

AND

1 The Additional Commissioner, Municipal corporation of Hyderabad,
Secunderabad Division, Secunderabad.
2 The Commissioner,
Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents orally threatening and demanding the stoppage of construction of premises bearing Numbers 3-4-451, 3-4-452 and 3-4-120 situated at General Bazaar, Secunderabad, as illegal arbitrary, null and void and consequently direct the respondents not to stop the construction by interfering in any manner in the above said premises.

Counsel for the Petitioners: MR.S.A.M.ALMOHI

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court made the following:

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ORDER:

The petitioners claim to be the owners of the houses bearing No.3-4-451, 3-4-452 and 3-4-120 respectively situated at General Bazaar, Secunderabad. The petitioners obtained building permission dated 25.06.2002 to construct new structures. It is alleged that the first respondent came to the premises on 20.12.2002 and directed the petitioners not to proceed with the construction and also threatened to demolish if the construction is made. Therefore, the present Writ Petition is filed seeking a declaration that the action of the respondents in orally threatening the petitioners to stop the construction is illegal and arbitrary.

Today, when the matter is called, learned Standing Counsel for Municipal Corporation of Hyderabad ('the Corporation' for brevity) submits that the Writ Petition is filed on mere apprehension and that the Corporation has not issued any notice directing the petitioners to stop the construction nor the officials orally directed the petitioners to stop the construction. She also urges that the averments in the Writ Petition affidavit are invented for the purpose of this case.

After perusing the affidavit and hearing learned counsel for the petitioner, this Court is convinced that the Writ Petition is filed on mere apprehension. It is made clear that if any action is to be taken against the petitioners, the Corporation shall follow the procedure under the provisions of the Hyderabad Municipal Corporations Act, 1955. These observations will safeguard the petitioners, if the petitioners are making construction in accordance with Building Regulations.

The Writ Petition is accordingly disposed of.

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(V.V.S.RAO, J)

6th August 2004

RRB

Copy To:

1 The Additional Commissioner, Municipal corporation of Hyderabad, Secunderabad Division, Secunderabad.
2 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund, Hyderabad.

3 Two CD copies.